

CHAPTER 9.

Summary of Evidence from Marketplace and Disparity Analyses

The balance of the report presents information that will assist GDOT when setting an overall DBE goal (Chapter 10), projecting the maximum feasible portion of the overall DBE goal to be met through neutral means (Chapter 11) and designing components of its implementation of the program following the federal regulations (Chapter 12). Before proceeding to these analyses, it is useful to summarize the information from the marketplace and disparity analyses in earlier chapters.

A. Marketplace Analyses

There is evidence of disparities in the Georgia marketplace for minorities and women pertaining to:

- Entry and advancement;
- Business ownership;
- Access to business capital, bonding and insurance; and
- Success of businesses.

The evidence of barriers to doing business in the transportation contracting marketplace includes information collected in telephone interviews with Georgia minority-, women- and majority-owned businesses. Chapter 4 and Appendices D, E, F and G present results of BBC's marketplace analyses.

There is also qualitative evidence of discrimination against minority- and women-owned businesses in the Georgia marketplace from a number of disparity studies local agencies have completed in the past three years as well as from public comments made as part of the GDOT disparity study process. The qualitative information from these disparity studies is consistent with BBC's quantitative analyses of marketplace conditions in Georgia, as discussed in Chapter 4.

B. Disparity Analyses for GDOT Contracts

BBC examined GDOT construction and engineering-related contracts from 2009 through June 2011. BBC separately analyzed GDOT's FHWA-funded contracts, for which DBE contract goals often applied, and GDOT's state-funded contracts (on which no goals applied).

- The utilization of minority- and women-owned firms in GDOT contracts when the Federal DBE Program did not apply (state-funded contracts) was substantially below what might be expected from the availability analysis. There were substantial disparities for white women-owned firms and African American-, Asian-Pacific American-, Subcontinent Asian American-, Hispanic American- and Native American-owned businesses.

- Even when the Federal DBE Program did apply (GDOT's FHWA-funded contracts), there were substantial disparities between the utilization and availability of MBE/WBEs overall. When examined by group, there were substantial disparities for African American-, Asian-Pacific American- and Subcontinent Asian American-owned firms on GDOT's FHWA-funded contracts.

There were also disparities in the overall utilization of MBE/WBEs on local agency construction contracts that received funds administered through GDOT.

C. Exploration of Causes of the Disparities

BBC conducted a number of analyses to further explore the disparities identified for minority- and women-owned firms discussed above.

- **Regions and time periods.** As discussed in Chapter 8, BBC identified disparities in GDOT's utilization of MBE/WBEs across regions of the state. There were disparities for 2009 as well as the 2010 through June 2011 time period.
- **GDOT construction and engineering contracts.** There were disparities for MBE/WBEs overall for state-funded construction contracts, and for FHWA-funded contracts with application of DBE contract goals. BBC also found disparities for MBE/WBEs on GDOT engineering-related contracts.
- **Prime contracts.** There were disparities in the utilization of MBEs and WBEs as prime contractors on GDOT construction contracts (except for Subcontinent Asian American-owned firms). For small construction contracts, BBC identified disparities in the utilization of MBE/WBEs as prime contractors. There were disparities for MBE/WBEs on engineering-related prime contracts as well.

Certain aspects of GDOT's contracting process appear to negatively affect prime contract opportunities for all small firms. Such components may have more of a negative effect on minority- and women-owned firms. Many of these components are required under state law.

- **Analysis of potential overconcentration.** Based on analyses of DBE participation by type of work, GDOT may need to consider steps to ensure that future DBE participation is not overconcentrated in trucking (in accordance with 49 CFR Section 26.33).

D. Analysis of Complaints from DBEs and Other Firms

The BBC study team reviewed written complaints GDOT received between January 2009 and June 2011 related to operation of the Federal DBE Program. Complaints made by DBEs and other firms related to:

- Improper delay or withholding of payment by the prime contractor;
- Non-use of a listed DBE subcontractor and fraudulent reporting of DBE use; and
- Other fraudulent actions.

The complaints made to GDOT indicate efforts by some prime contractors to avoid compliance with the Federal DBE Program. The complaints suggest that DBE subcontractors are unfairly treated by some prime contractors on GDOT contracts. Appendix I reviews these complaints in detail.

The types of complaints made to GDOT are consistent with qualitative information compiled in the local government disparity studies as well as public comments made as part of the GDOT disparity study process, which are summarized in Chapter 4.

E. Summary

There appears to be a continued need for GDOT efforts to open transportation contracting opportunities to minority- and women-owned businesses.

- Quantitative and qualitative information indicate disadvantages for minorities and women and for minority- and women-owned firms in the Georgia marketplace.
- Even with implementation of the Federal DBE Program, there was underutilization of MBE/WBEs overall in GDOT's FHWA-funded contracts from 2009 through June 2011.
- There were also disparities in the use of MBE/WBEs on local agency contracts that use FHWA and/or state funds administered by GDOT.
- The Federal DBE Program does not apply to GDOT's state-funded contracts. Without application of DBE contract goals on GDOT contracts:
 - The utilization of MBE/WBEs was less than one-quarter (22%) of the level that might be expected based on the availability of minority- and women-owned firms for this work.
 - There were substantial disparities in the utilization of African American-, Asian-Pacific American-, Subcontinent Asian American-, Hispanic American-, Native American- and white women-owned firms on GDOT's state-funded contracts.
- There is a need for GDOT to explore additional measures to open more prime contract opportunities to minority- and women-owned firms and to help build capabilities of minority- and women-owned firms to perform that work.

- GDOT may also need to consider steps to ensure that future DBE participation is not overconcentrated in trucking.

Past complaints to GDOT that were submitted by DBEs, as well as certain public comments, suggest that GDOT will need to continue close monitoring of prime contractor compliance with the Federal DBE Program.

The information concerning Georgia marketplace conditions and barriers that MBE/WBEs may face is important as GDOT considers:

- Setting its overall annual goal for DBE participation;
- Determining the extent to which it can achieve its DBE goal through neutral efforts and the specific groups that might be included in certain Program measures such as DBE contract goals; and
- Specific measures to be included in its implementation of the Federal DBE Program.